IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

In the matter of an application for appeal under and in terms of Article 154(6) of the Constitution of the Democratic Socialist Republic of Sri Lanka read with Section 6 of the Provincial High Court Act of 1990.

Court of Appeal Case No.
CA (PHC) 65/2019

Galle High Court Revision
Application No.
SP/HC/GA/REV/104/2015

MC Baddegama Case No. 80163

Officer in Charge
Police Station- Baddegama.

Complainant

Vs.

1. Munugoda Hewage Keerthirathna
2. Munugoda Hewage Siriyalatha

Both of, Maddewila, Aethkandura.

1st Party 1st and 2nd Respondents

3. Munugoda Hewage Ariyarathne
4. Hewa Anthonige Ariyawathie

Both of, Maddewila, Aethkandura.

2nd Party 3rd and 4th Respondents

AND BETWEEN

3. Munugoda Hewage Ariyarathne
4. Hewa Anthonige Ariyawathie

Both of, Maddewila, Aethkandura.

2nd Party 3rd and 4th Respondents-Petitioners

Vs.

1. Munugoda Hewage Keerthirathna

2. Munugoda Hewage Siriyalatha

Both of, Maddewila, Aethkandura.

1st Party 1st and 2nd Respondents-Respondents

Officer in Charge
Police Station- Baddegama.

Complainant-Respondent

AND NOW BETWEEN

1. Munugoda Hewage Keerthirathna

2. Munugoda Hewage Siriyalatha

Both of, Maddewila, Aethkandura.

1st Party 1st and 2nd Respondents-Respondents-Appellants

Vs.

3. Munugoda Hewage Ariyarathne

4. Hewa Anthonige Ariyawathie

Both of, Maddewila, Aethkandura.

2nd Party 3rd and 4th Respondents-Petitioners-Respondents

Officer in Charge
Police Station- Baddegama.

Complainant-Respondent

Before: Damith Thotawatte, J.

K.M.S. Dissanayake, J.

Counsels:	Nuwan Bopage with Chamath De Silva for the 1st Party 1st and 2nd Respondents-Respondents-Appellants. Epa Aruna Shantha for the 2nd Party 3rd and 4th Respondents-Petitioners-Respondents.
Argued:	26.11.2025
Written submissions tendered on:	21.11.2023 by 1st Party 1st and 2nd Respondents-Respondents-Appellants. 22.02.2024 by 2nd Party 3rd and 4th Respondents-Petitioners-Respondents.
Judgment Delivered:	12.03.2026

Thotawatte, J.

Introduction

This appeal is filed by 1st Party 1st and 2nd Respondents-Respondents-Appellants (hereinafter sometimes referred to collectively as the "Appellants" and individually as the 1st Appellant and 2nd Appellant) against the judgment dated 17 May 2019 pronounced by the learned Judge of the Provincial High Court of the Southern Province holden in Galle, exercising revisionary jurisdiction, in favour of the 2nd Party 3rd and 4th Respondents-Petitioners-Respondents (hereinafter sometimes referred to collectively as the "Respondents" and individually as the 3rd Respondent and 4th Respondent). By that judgment, the learned High Court Judge set aside the order dated 05 August 2015 made by the learned Magistrate of the Magistrate's Court of Baddegama, acting as the Primary Court Judge under Part VII of the Primary Courts' Procedure Act, No. 44 of 1979 (hereinafter sometimes referred to as the "PCP Act").

Factual Matrix

The dispute before the Court concerns an extent of land originally owned by Munugoda Hewage Almis, who is the father of the 1st and 2nd Appellants as well as the 3rd Respondent.

It is common ground that the said Munugoda Hewage Almis (also spelled *Elmis*) had acquired the land by purchase several years prior to the events giving rise to these proceedings and that, at the time material to this application under Section 66 of the PCP Act, the land had been cultivated with tea. The present proceedings arise out of a complaint made in July 2014 alleging a disturbance of possession in respect of a portion of this land, giving rise to the competing claims now before this Court.

Appellants' claim:

The 1st and 2nd Appellants contend that the subject land originally belonged to their father, Munugoda Hewage Almis, who in or about 2014 subdivided the land and placed them in possession of distinct portions thereof, two acres to the 1st Appellant and one acre to the 2nd Appellant. They assert that they entered into possession pursuant to such allotment and cultivated the land, and that on 20.07.2014 the 3rd and 4th Respondents disturbed their possession by plucking tea from the plantation situated within the land in their possession.

Respondents' claim:

The 3rd and 4th Respondents, on the other hand, maintain that the 3rd Respondent had been placed in possession of a portion of the land by the same father at an earlier point in time and had cultivated tea thereon. While the 3rd Respondent's statements vary as to the extent claimed, ranging from one acre to three acres and thirty-three perches, and in one instance asserting a conveyance by deed. The Respondents' consistent position is that the Appellants were not in possession at the material time and that the 3rd Respondent continued in possession of the disputed portion when the first information was filed.

Litigation Path

1. On 06 August 2014, the Officer-in-Charge of the Police Station, Baddegama, filed an information under section 66(1)(a) of the PCP Act before the Magistrate's Court of Baddegama,

2. After an inquiry conducted under Part VII of the PCP Act, the learned Magistrate, by order dated 05 August 2015, found in favour of the 1st Party (the present Appellants) and made an order safeguarding their possession.

3. Aggrieved by that order, the 2nd Party (the present Respondents) invoked the revisionary jurisdiction of the Provincial High Court of the Southern Province, filing a revision application challenging the Magistrate's findings.

4. The Provincial High Court, by judgment dated 17 May 2019, allowed the revision application, set aside the Magistrate's order, and granted relief in favour of the 2nd Party, holding *inter alia* that the Magistrate had erred in identifying the party in possession and in appreciating the evidence.

5. The 1st Party, being dissatisfied with the judgment of the Provincial High Court, has now preferred this appeal to the Court of Appeal, invoking appellate jurisdiction under Article 154(6) of the Constitution read with the Provincial High Courts (Special Provisions) Act.

The Basis of the High Court's Decision

1. Misdirection regarding the father of the Appellants, Munugoda Hewage Almis

   The Magistrate erred in treating the father as an intervenient party and relying on his possession, although he was not a party to the proceedings and had merely filed supporting affidavits without seeking relief.

2. Misdirection in holding that the 3rd Respondent was a licensee.

   The finding that the 3rd Respondent occupied the land as a licensee of the father was incorrect, as the father himself had lodged a complaint alleging forcible possession, thereby terminating any such licence.

3. Incorrect assessment of possession

   The evidence indicated that the dispute had arisen months before the proceedings were instituted and that the Respondents had been in occupation during that period; thus, the Magistrate's conclusion on possession could not be sustained.

Grounds on which the appeal has been forwarded

a) The learned High Court Judge erred in law in treating the dispute as one of forcible dispossession attracting the two-month limitation under Section 68(3) of the

Primary Courts' Procedure Act, instead of determining possession as at the date of filing under section 68(1).

b) The learned High Court Judge misdirected himself in overturning the Magistrate's finding on possession, particularly in concluding that the father was the actual possessor, contrary to the material before Court.

c) The learned High Court Judge exceeded the limits of revisionary jurisdiction by re-evaluating the evidence and substituting his own findings in the absence of jurisdictional error or illegality.

d) The learned High Court Judge erred in setting aside an order made within jurisdiction under sections 66 and 68 of the Act, thereby defeating the preventive purpose of the statute.

Statutory framework and analysis

Section 66 of the PCP Act empowers a Primary Court Judge to inquire into disputes relating to possession of land where such disputes are likely to cause a breach of the peace and to make interim protective orders to preserve public order. The inquiry contemplated is summary in nature, and the focus is strictly on *possession as at the date of the information*, not on title or long-term proprietary rights.

It is settled law that in revision, a Provincial High Court does not sit as a court of appeal. Interference is warranted only where there is a patent illegality, jurisdictional error, or manifest miscarriage of justice. A mere disagreement with the evaluation of evidence or factual conclusions reached by the Magistrate does not justify the exercise of revisionary powers.

In the present case, the learned High Court Judge invoked the revisionary jurisdiction of that Court on the basis that the learned Magistrate had misdirected himself in law in treating the father of the parties as an intervenient party, in concluding that the 3rd Respondent occupied the land as a licensee of the father, and in determining the question of possession. These matters were identified by the High Court as errors going to the legal basis upon which the Magistrate's order had been made. Upon consideration, it appears that the High Court did not merely substitute its own view of the evidence, but examined whether the conclusions reached by the learned Magistrate were founded upon a correct

appreciation of the legal position and the undisputed material on record. In that context, the intervention of the High Court was premised on the view that the Magistrate had proceeded on an erroneous legal footing regarding the status of the father and the alleged licence, and that the resulting determination of possession had been affected by that misdirection. The analysis undertaken by the High Court was therefore directed at correcting those errors rather than undertaking a fresh factual reassessment of the evidence.

It appears that the learned Magistrate in order to reconcile the inconsistencies of the evidence presented by the Appellants' party and to adopt it to the fit into the provisions of Part VII of the PCP Act, had in his order invented the status of **"intervenient party"** to describe the father of the Appellants and also stated that the Respondents had been in possession of the land with the permission and agreement of the said **"intervenient party"**.

Although the learned Magistrate repeatedly refers to Munugoda Hewage Almis as an **"Intervenient Party",** his name does not appear in the caption to the proceedings, either in that capacity or in any other capacity.

The learned Magistrate further found that Munugoda Hewage Elmis, the father of the Appellants and the 3rd Respondent, who was referred to in the proceedings as the "Intervenient Party", had remained in possession of the subject land until 19.04.2014. The learned Magistrate held that such possession was thereafter transferred to the Appellants and continued without interruption. On that basis, the learned Magistrate concluded that the Respondents had not dispossessed the said "Intervenient Party" from the subject land within the two months immediately preceding the filing of the information.

On the above grounds it is clear that it is the learned Magistrate that had considered the dispute as one of forcible dispossession attracting the two-month limitation under section 68(3) of the PCP Act, and not the learned Judge of the High Court as contended by the Appellants.

Conclusion

For the foregoing reasons, this Court finds no merit in the appeal. The learned High Court Judge properly exercised the revisionary jurisdiction upon identifying material misdirections in the reasoning of the learned Magistrate concerning the status of the father, the alleged licence, and the determination of possession. Accordingly, the judgment

of the Provincial High Court dated 17.05.2019 is affirmed. The appeal is dismissed subject to costs.

Judge of the Court of Appeal

K.M.S. Dissanayake, J.

I agree

Judge of the Court of Appeal